

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

*Plaintiff,*

v.

CELLO PARTNERSHIP d/b/a VERIZON  
WIRELESS and VERIZON CORPORATE  
SERVICES GROUP, INC.,

*Defendants.*

Case No. 2:23-cv-00352-JRG-RSP

**JURY DEMANDED**

**DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION FOR JUDGMENT ON  
THE PLEADINGS UNDER RULE 12(C) THAT THE  
ASSERTED CLAIMS ARE INVALID UNDER 35 U.S.C. § 101**

**TABLE OF AUTHORITIES**

**Page(s)**

**Cases**

*Koncak v. Deutsche Bank Nat’l Tr. Co. as Tr. for GSAMP Tr. 2006-FM2, Mortg. Pass-Through Certificates, Series 2006-FM2,*  
No. 3:19-CV-0071-B-BT, 2020 WL 13505361 (N.D. Tex. Feb. 3, 2020) .....1

*Stringer v. Davis Mountain Prop. Owners Ass’n,*  
81 F. App’x 502 (5th Cir. 2003) .....1

**Statutes**

35 U.S.C. § 101 .....1

**Other Authorities**

Fed. R. Civ. P. 12(h)(2).....1

Nothing in Headwater's Opposition (Dkt. 217, the "Opposition") undermines the conclusion that the asserted claims of the '541 (claims 79 and 83) and the '613 (claims 1, 12, 15, 16, and 18) (the "Asserted Claims") are ineligible under 35 U.S.C. § 101. As set forth in the opening motion (*see* Dkt. No. 190, the "Motion"), the Asserted Claims recite the longstanding process of selectively managing communications by: (1) determining a user-configurable policy to apply to received communications, (2) assessing a communication, and (3) applying the policy to the communication. Headwater's attempt to characterize the invention as "improving the function" of "wireless end-user devices" is belied by the claims themselves, which recite only abstract steps applied to generic computer components.

Plaintiff's arguments that the 12(c) motion for judgment on the pleadings is procedurally defective are meritless. *See* Opp. at 20-21. Plaintiff cites *no* cases in support. The Motion poses no delay to trial because it was filed by the dispositive motion deadline. *Koncak v. Deutsche Bank Nat'l Tr. Co. as Tr. for GSAMP Tr. 2006-FM2, Mortg. Pass-Through Certificates, Series 2006-FM2*, No. 3:19-CV-0071-B-BT, 2020 WL 13505361, at \*2 (N.D. Tex. Feb. 3, 2020) (finding 12(c) motion timely where it was filed before dispositive-motion deadline and three months before trial). Whether the Asserted Claims are directed to patent ineligible subject matter is a failure to state a claim defense which, under FRCP 12(h)(2), may be raised as late as trial. Moreover, the Motion relies only on the factual allegations in the complaint and therefore, there is no basis to convert the Motion into one for summary judgment. *Stringer v. Davis Mountain Prop. Owners Ass'n*, 81 F. App'x 502 (5th Cir. 2003).

Defendants therefore respectfully move for judgment on the pleadings that the Asserted Claims are invalid.

Dated: April 24, 2025

By: /s/ Celine Crowson

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record via the Court's ECF system on April 24, 2025.

/s/ Celine Crowson

Celine Crowson